



**Civil Action No. 05-2287-BV  
4573-4**

<b>Persons With Knowledge Of Facts</b>	<b>Anticipated Subjects Of Information</b>
Ziad Said Ozrail 838 Shotwell Road Memphis, Tennessee 38111 (901) 650-4321	Plaintiff's use and registration of the mark Z MARKET; Defendants' infringement of Plaintiff's mark; and resulting damages
Z Best Oil Co., Inc. 3888 Macon Road Memphis, Tennessee 38122 (901) 454-5800	Defendants' use of the mark Z BEST MARKET; Defendants' infringement of Plaintiff's mark; and resulting damages.
Haitham A. Alyousef 3114 Holly Heath Drive Memphis, Tennessee 38119	Defendants' use of the mark Z BEST MARKET; Defendants' infringement of Plaintiff's mark; and resulting damages
Nasser Ozrail 3301 Knight Trails Circle Apartment 107 Memphis, Tennessee 38115	Defendants' use of the mark Z BEST MARKET; Defendants' infringement of Plaintiff's mark; and resulting damages

**Rule 26(a)(1)(B):** A copy of, or description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

The following are the categories of documents, data compilations and/or tangible things in the possession, custody, or control of Z. Ozrail located at the offices of Z. Ozrail or its counsel of record that Z. Ozrail reasonably anticipates at present it may use to support its claims, unless solely for impeachment.

1. Plaintiff's use and registration of the mark Z MARKET in the State of Tennessee;
2. Defendants' use of the mark Z BEST MARKET and infringement of Plaintiff's mark;
3. Plaintiff's damages resulting from Defendants' infringement of Plaintiff's mark;

**Civil Action No. 05-2287-BV  
4573-4**

4. Plaintiff's commercial success and goodwill acquired by Plaintiff resulting from the use of Plaintiff's mark;
5. Plaintiff's budget, sales, marketing and strategic operating plans;
6. Actual confusion resulting from Defendants' use of the mark Z BEST MARKET and infringement of Plaintiff's mark;
7. Plaintiff's prior communications with Defendants.

Identification and production by Z. Ozrail of the above categories of documents shall not be construed as a waiver of attorney-client privilege, work-product immunity, and/or any other privilege or exception afforded to Z. Ozrail under the law. Z. Ozrail reserves the right to supplement these documents.

Rule 26(a)(1)(C): A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

Pending discovery as to the extent of Defendants' sales, profits and use of the mark Z BEST MARKET, Z. Ozrail is unable to compute the damages arising out of Defendants' infringement of Plaintiff's mark. Damages would be computed, however, in accordance with 15 U.S.C. §1117 and Tenn. Code Ann. §47-18-109 and §47-25-514, that is, as the amount adequate to compensate Z. Ozrail for Defendants' infringement, but in no event less than Defendants' profits and damages sustained by Plaintiff, together with attorneys' fees, interest and costs as fixed by the Court.

**Rule 26(a)(1)(D):** For inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part of all of a judgment which

**Civil Action No. 05-2287-BV  
4573-4**

may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Z. Ozrail is not aware of any pertinent insurance policies at this time.

Dated: September 7, 2005

**ZIAD SAID OZRAIL**

By \_\_\_\_\_  
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Attorney for Plaintiff

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing document has been mailed, First Class postage prepaid to John Hershberger, Hershberger Price, PLLC, 239 Adams Avenue, Memphis, Tennessee 38103, attorney for defendants, this 7<sup>th</sup> day of September, 2005.

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James R. Newsom III